



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

TYSHA HOLMES, §
§
Plaintiff, §
§
vs. § Civil Action No.: 3:17-89-MGL-PJG
§
DOCTORS CARE, P.A., §
§
Defendant. §
§

ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING THE COMPLAINT WITH PREJUDICE

This is an employment discrimination action arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e. Plaintiff is represented by excellent counsel. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting this action be dismissed under Federal Civil Procedure Rule 37(b)(2)(A) for Plaintiff's failure to prosecute her case and her noncompliance with the discovery process, including her violation of the Magistrate Judge's January 30, 2018, order compelling her to respond to discovery. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo

determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on March 7, 2018, ECF No. 34, but Plaintiff failed to file any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that Defendant’s motion to dismiss is **GRANTED**, and this action is **DISMISSED WITH PREJUDICE** under Rule 37(b)(2)(A) for Plaintiff’s failure to prosecute her case and her noncompliance with the discovery process, including her violation of the Magistrate Judge’s January 30, 2018, discovery order. Defendant’s motion for judgment on the pleadings, ECF No. 14, and Plaintiff’s counsel’s motion to be relieved as counsel, ECF No. 29, are **RENDERED MOOT**.

IT IS SO ORDERED.

Signed this 5th day of April 2018 in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.